



# Highway Maintenance Manual

Bureau of Highway Maintenance

Chapter 9 Right-of-Way Use & Permits

August 2022

Section 15 Utility Accommodation

Subject 50 Discovery of Environmental Conditions

## 1.0 General

Follow the responsibilities and procedures listed in this subject when environmental conditions are discovered in state trunk highway (STH) right-of-way (ROW). These conditions include, but are not limited to:

- 1) Tribal and non-tribal cultural resources: archeological sites, historic structures, burial sites, etc.
- 2) Endangered resources: rare plants, animals, and natural communities
- 3) Threatened and endangered species or their habitats
- 4) Contaminated sites, underground storage tanks (USTs), leaking underground storage tanks (LUSTs)

To mitigate discovery of environmental conditions as best as practicable, perform environmental coordination and complete the associated Checklist in [HMM 09-15-16](#).

## 2.0 Discovery of Environmental Conditions

Whether the discovery of environmental conditions occurs during a site assessment, facility installation, or maintenance operation, **ALL WORK SHALL BE SUSPENDED IMMEDIATELY**. If the site poses a possible health risk, notify local police and fire departments immediately and take all necessary steps to provide for the safety of people and prevent property damage in the area. After suspending operations, contact the offices listed in [Table 1](#) depending upon the type of conditions discovered.

Failure to stop work immediately upon discovery of environmental conditions **may** result in financial responsibility ([Table 2](#)) for the utility due to subsequent site assessments, mitigation, remediation, or possible fines. Use the checklist in [Attachment 1](#) to collect the necessary information that may be asked by site investigators.

WisDOT will notify the utility when it can resume its operation.

<b>Table 1: Environmental Conditions Discovery Notification List</b>	
Category	Contact Information (Note: Contact All That Apply)
<b>Tribal Cultural Resources</b>	
All areas: contact specific Tribal Nation	<a href="#">Tribal historic preservation officers</a>
<b>Non-Tribal Cultural Resources</b>	
Historic structure	State Historic Preservation Office: (608) 264-6506
Archeological site	State Historic Preservation Office: (608) 264-6507
Burial site	Burial Sites Preservation Office: (608) 264-6503 or (800) 342-7834
<b>Contaminated Sites, USTs, LUSTs</b>	
Department of Natural Resources <sup>2</sup>	<a href="http://dnr.wi.gov/topic/spills/report.html">http://dnr.wi.gov/topic/spills/report.html</a> (800) 943-0003 or (888) 936-7463
<b>For Any Discovery</b>	
Utility project but no WisDOT project	WisDOT <a href="#">region utility permit coordinator</a> <sup>1</sup>
WisDOT project	WisDOT construction project manager or region construction supervisor <sup>1</sup>
1. These people also notify the following staff in WisDOT's Bureau of Technical Services: Lynn Cloud..... (608) 266-0099 .....Cultural Resources Shar TeBeest..... (608) 266-1476 .....Contaminated Sites, USTs, LUSTs, etc. 2. Required under Ch. 292 Wis. Statutes	

### 3.0 Utility Facility Placement Options

When environmental conditions are discovered in the ROW, the Department of Natural Resources, State Historic Preservation Office, or Burial Sites Preservation Office (collectively: Agency) determines whether a utility can locate its facility within the affected area. Based upon an Agency’s decision, the following may occur:

#### Utility Entirely Avoids the Affected Area

- 1) An Agency mandates that the area be left in its natural state, and utility facilities are not allowed in the area.
- 2) The utility decides that it wants to locate in another area and avoid possible delays to its project due to site assessments, remediation, mitigation, or the possible decision noted in 1.

#### Utility Locates Around or Through the Affected Area

- 3) An Agency orders the site to be completely remediated or mitigated before any utility installation can take place. The utility would then have a clear corridor in which to locate its facility.
- 4) An Agency decides that the area can be left in its natural state, but any area disturbed or affected by the utility operation (based upon the Agency’s assessment) must be remediated or mitigated. The utility may also elect to go around the area, if possible, and avoid remediation or mitigation.
- 5) An Agency decides that the area can be left in its natural state, and existing conditions do not have to be remediated or mitigated as long as the utility exercises extreme care to avoid any significant disruption to the area. In the case of an archeological or historical site, a utility may be allowed to place a facility in an area that was already disturbed. In the case of a hazardous materials site, a utility would have to utilize construction methods that would prevent any contamination from spreading.

Unless WisDOT has taken charge of the remediation or mitigation process due to a WisDOT project, a utility that decides to locate its facility through an affected area, as described in items 3-5 above, shall document in its permit application that it has contacted the Agency and has received the proper authorization to locate in the area along with its proposed construction methods. These permits may also be routed through the Region Environmental Coordinator or the Bureau of Technical Services as a final check.

### 4.0 Financial Responsibility

When a utility performs an initial site assessment on STH ROW – either with a project of its own or because a WisDOT project is not required to obtain environmental information – the utility pays for the assessment cost. No matter who conducted the initial assessment or even if one was not done, a utility that discovers any environmental conditions is not responsible for assessment, mitigation, or remediation costs provided it had complied with section 2.0 of this policy and avoids the site by placing its facility in another location. [Table 2](#) specifies who may have to pay for assessment, mitigation, or remediation costs depending upon the situation.

<b>Table 2: Financial Responsibility – Utility Discovers Environmental Conditions while Working on STH ROW and Decides to Locate in the Affected Area</b>		
Category/Activity		Who Pays for Activity?
<b>Cultural Resources</b>		
Site Assessments (Identification or evaluation surveys) <sup>1</sup>	• Utility project but no WisDOT project	Utility
	• WisDOT project	Utility or WisDOT <sup>2</sup>
Mitigation <sup>1</sup>	• SHPO, BSPO, or Tribal order; or no order	Utility
<b>Contaminated Sites, USTs, LUSTs, etc.</b>		
Site Assessments	• Utility project but no WisDOT project	RP or WisDOT or Utility <sup>3</sup>
	• WisDOT project	
Remediation	• DNR order	RP or WisDOT or Utility <sup>3</sup>
	• No DNR order	Utility
1. WisDOT policy is to <b>not</b> spend available resources for assessments or mitigation, but rather preserve archeological sites and historic structures in place. This is in accordance with Section 106 of the National Historic Preservation Act. 2. Applicable only when WisDOT is required to obtain environmental information for its project. 3. If a utility fails to comply with section 2.0 of this policy, it may be responsible for a percentage of the costs depending upon how much worse the situation becomes due to the utility’s actions.  Recover utility costs incurred due to discovering contaminated sites, USTs, or LUSTs from the RP <b>when WisDOT is not the RP.</b>  SHPO = State Historic Preservation Office      RP = Responsible Party (hazard source owner as determined by DNR) BSPO = Burial Sites Preservation Office      DNR = Department of Natural Resources		

**Attachment 1: Environmental Conditions Discovery Checklist (Page 1 of 2)**

As soon as environmental conditions are discovered in WisDOT's right-of-way,  
STOP WORK IMMEDIATELY  
 and be prepared to report the following information to the contacts listed in [HMM 09-15-50 Table 1](#)

Note: For "Yes/No" questions, box initially set to "No"

**1. SITE LOCATION**

- a. Highway(s): \_\_\_\_\_ b. Direction<sup>1</sup>:  NB  SB  EB  WB
- c. County: \_\_\_\_\_ d.  City  Village  Town of: \_\_\_\_\_
- e. Distance and direction from nearest public road intersection or mile marker? \_\_\_\_\_
- f. Nearest public road intersection name or mile marker number? \_\_\_\_\_
- g. Other landmarks? \_\_\_\_\_
- h. Is this work part of a highway project?  Yes  No If yes, list the project ID \_\_\_\_\_

**2. ENVIRONMENTAL CONDITION – Cultural Resources**

- a. What was found (burial site, building foundation, artifact)? \_\_\_\_\_
- b. Is the location of the find marked?  Yes  No If yes, how is it marked? \_\_\_\_\_
- c. Approximate area (dimensions) of the find? \_\_\_\_\_

**3. ENVIRONMENTAL CONDITION – Contaminated Sites, USTs<sup>2</sup>, LUSTs<sup>3</sup>**

- a. What was found? \_\_\_\_\_
- b. Appearance of soils or liquid? \_\_\_\_\_
- c. Odor of soils or liquid? \_\_\_\_\_
- d. Approximate size of tank or area of contamination uncovered? \_\_\_\_\_
- e. Obvious liquid or product in the tank?  Yes  No
- f. Obvious smell in the tank?  Yes  No If yes, can you describe it (varnish, kerosene, gasoline, diesel, other, unknown)? \_\_\_\_\_
- g. Soil type(s) encountered (sand, gravel, clay, till)? \_\_\_\_\_
- h. Depth to groundwater (if known)? \_\_\_\_\_
- i. Any previous land use knowledge (local history, memory of site as a business)?  Yes  No  
If yes, please describe. \_\_\_\_\_
- j. Is the location of the find marked?  Yes  No If yes, how is it marked? \_\_\_\_\_

**4. STATUS OF UTILITY WORK**

- a. Has the work stopped in the area?  Yes  No If NO, STOP WORK IMMEDIATELY!
- b. Has the area been secured<sup>4</sup>?  Yes  No
- c. Can the work continue in another area?  Yes  No If yes, for how long? \_\_\_\_\_
- d. Can the affected area be avoided (utility facility placed in another location)?  Yes  No
- e. Has any completed utility work been clearly marked (staked, painted, or flagged)?  Yes  No
- f. Is any of the completed utility facility active, energized, etc.?  Yes  No
- g. Is this utility being relocated to facilitate a highway project?  Yes  No

<sup>1</sup> Direction is the cardinal or route direction, not the actual compass direction:  
 NB = Northbound, SB = Southbound, EB = Eastbound, WB = Westbound  
<sup>2</sup> Underground storage tanks  
<sup>3</sup> Leaking underground storage tanks  
<sup>4</sup> Fenced, staked/marked, roped off, delineated by traffic control devices, etc.

**Attachment 1: Environmental Conditions Discovery Checklist (Page 2 of 2)**

**5. CONTACTS**

- a. Was the State Historic Preservation Office (SHPO) contacted if building foundations or artifacts were discovered?  Yes  No  
If yes, date: \_\_\_\_\_ By (name/phone): \_\_\_\_\_  
SHPO contact (name/phone): \_\_\_\_\_
  
- b. Was the Burial Sites Preservation Office (BSPO) contacted if a burial site was discovered?  Yes  No  
If yes, date: \_\_\_\_\_ By (name/phone): \_\_\_\_\_  
BSPO contact (name/phone): \_\_\_\_\_
  
- c. Was the Department of Natural Resources (DNR) contacted if a contaminated site, UST or LUST was discovered?  Yes  No  
If yes, date: \_\_\_\_\_ By (name/phone): \_\_\_\_\_  
DNR contact (name/phone): \_\_\_\_\_
  
- d. Was the WisDOT utility permit coordinator, construction project manager, or other WisDOT project representative (e.g., consultant) contacted?  Yes  No  
If yes, date: \_\_\_\_\_ By (name/phone): \_\_\_\_\_  
WisDOT contact (name/phone): \_\_\_\_\_  
WisDOT contact (name/phone): \_\_\_\_\_  
Consultant contact (name/phone): \_\_\_\_\_
  
- e. Was WisDOT's Bureau of Technical Services contacted?  Yes  No  
*Note: This is not a utility responsibility*  
If yes, date: \_\_\_\_\_ By (name/phone): \_\_\_\_\_  
WisDOT contact (name/phone): \_\_\_\_\_  
WisDOT contact (name/phone): \_\_\_\_\_
  
- f. Other contacts or email addresses: \_\_\_\_\_  
\_\_\_\_\_

**6. RESUMING WORK**

- a. Did WisDOT indicate a timeframe in which someone would respond?  Yes  No
- b. What is that timeframe? \_\_\_\_\_
- c. Who will authorize resuming work? \_\_\_\_\_
- d. When can the work be resumed? \_\_\_\_\_
- e. Date authorization received? \_\_\_\_\_